

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALL RIGHT, TITLE AND INTEREST
IN REAL PROPERTY AND
APPURTEANCES LOCATED AT
18801 COLLINS AVENUE, APARTMENT
322-3, SUNNY ISLES BEACH, FLORIDA
33160, AND

ALL RIGHT, TITLE AND INTEREST
IN REAL PROPERTY AND
APPURTEANCES LOCATED AT
85 BRAINERD ROAD, TOWNHOUSE 9,
BOSTON, MASSACHUSETTS 02134

Defendants-in-rem.

Claimant, Wells Fargo Bank Minnesota, National Association, as Trustee for Registered Holders of Option One Mortgage Loan Trust 2002-5, Asset-Backed Certificates, Series 2002-5 (“Wells Fargo”), by and through its attorneys, Steven J. Baum, P.C., answers the Complaint of the United States of America as follows:

1. Claimant, Wells Fargo, holds a mortgage lien against the real property known as 85 Brainerd Road, Townhouse 9, Boston, MA 02134 (the “Massachusetts Property”), which the United States of America seeks to forfeit in this case, Wells Fargo being an innocent third party with respect to the Massachusetts Property and being a mortgage lien holder having a legal right, title and interest in the Massachusetts Property superior to any right, title or interest of Maria N. Caicedo, which mortgage lien is more particularly described in the Claim of Wells Fargo filed in this matter on the 1st day of May, 2008.

2. Claimant, Wells Fargo, denies knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs "1" through "25" of the Verified Amended Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

3. Claimant, Wells Fargo, repeats and reiterates Paragraphs 1-2 above as if fully set forth herein.

4. Claimant, Wells Fargo, has a vested legal right, title and interest in the Massachusetts Property as more particularly described in the Claim of Wells Fargo filed in this matter on the 1st day of May, 2008, that is superior to any right, title, or interest of Maria N. Caicedo sought to be forfeited in this matter.

5. As the holder of a superior interest in the property, Wells Fargo's mortgage lien interest cannot be impaired by this action.

WHEREFORE, Claimant, Wells Fargo, requests that the Court recognize its interest in the Massachusetts Property, grant it relief from any Order of Forfeiture entered in this matter, and order that Wells Fargo be compensated in the full amount due and owing for its mortgage interest. Wells Fargo further requests that, if necessary, the Court hold a hearing to adjudicate its interest in the Massachusetts Property, together with such other and further relief as this Court may deem just and proper.

Dated: May, 19, 2008
Amherst, New York



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